



City of Tigard

Tigard Business Meeting – Agenda

TIGARD CITY COUNCIL & LOCAL CONTRACT REVIEW BOARD

MEETING DATE AND TIME: September 25, 2018 - 6:30 p.m. Study Session; 7:30 p.m. Business Meeting

MEETING LOCATION: City of Tigard - Town Hall - 13125 SW Hall Blvd., Tigard, OR 97223

PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Citizen Communication items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are *estimated*; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. *Business agenda items can be heard in any order after 7:30 p.m.*

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-718-2419, (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-718-2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

VIEW LIVE VIDEO STREAMING ONLINE:

http://www.tigard-or.gov/city_hall/council_meeting.php

CABLE VIEWERS: The regular City Council meeting is shown live on Channel 28 at 7:30 p.m. The meeting will be rebroadcast at the following times on Channel 28:

Thursday	6:00 p.m.	Sunday	11:00 a.m.
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Friday	10:00 p.m.	Monday	6:00 a.m.
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MEETING DATE AND TIME: September 25, 2018 - 6:30 p.m. Study Session; 7:30 p.m. Business Meeting

MEETING LOCATION: City of Tigard - Town Hall - 13125 SW Hall Blvd., Tigard, OR 97223

6:30 PM

- STUDY SESSION

- A. COUNCIL LIAISON REPORTS

- EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

7:30 PM

- 1. BUSINESS MEETING

- A. Call to Order
- B. Roll Call
- C. Pledge of Allegiance
- D. Call to Council and Staff for Non-Agenda Items

- 2. CITIZEN COMMUNICATION (Two Minutes or Less, Please)

- A. Follow-up to Previous Citizen Communication
- B. Tigard High School Student Envoy
- C. Citizen Communication – Sign Up Sheet

- 3. LOCAL CONTRACT REVIEW BOARD - CONSIDER PHOTO ENFORCEMENT SYSTEMS AND RELATED SERVICES CONTRACT AWARD **7:35 p.m. estimated time**

4. LEGISLATIVE PUBLIC HEARING - CONSIDER ORDINANCE TO AMEND THE TIGARD MUNICIPAL CODE REGARDING RIGHT-OF-WAY ENCROACHMENTS
7:45 p.m. estimated time
5. LEGISLATIVE PUBLIC HEARING - CONSIDER ORDINANCE TO AMEND THE TIGARD MUNICIPAL CODE CHAPTER 6.02 REGARDING RIGHT-OF-WAY ENCROACHMENTS **8:05 p.m. estimated time**
6. PUBLIC HEARING - CONSIDER RESOLUTION AMENDING MASTER FEES AND CHARGES SCHEDULE **8:15 p.m. estimated time**
7. CONSIDER RESOLUTION AUTHORIZING A CDBG GRANT APPLICATION FOR FREWING ST SIDEWALKS **8:25 p.m. estimated time**
8. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
9. NON AGENDA ITEMS
10. ADJOURNMENT **8:30 p.m. estimated time**

AIS-3491

3.

Business Meeting

Meeting Date: 09/25/2018

Length (in minutes): 10 Minutes

Agenda Title: LOCAL CONTRACT REVIEW BOARD - Consider
Photo Enforcement Systems and Related Services
Contract Award Systems and Related Services

Prepared For: Joseph Barrett **Submitted By:** Kelly
Burgoyne,
Central
Services

Item Type: Motion Requested **Meeting Type:** Local
Contract
Review
Board

Public Hearing No

Newspaper Legal Ad Required?:

Public Hearing Publication

Date in Newspaper:

Information

ISSUE

Shall the Local Contract Review Board award a contract for photo enforcement systems and related services to Conduent State and Local Solutions, Inc.?

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends the Local Contract Review Board award a contract for photo enforcement systems and related servcies to Conduent State and Local Solutions, Inc. and direct the City Manager to take the necessary steps to execute the contract.

KEY FACTS AND INFORMATION SUMMARY

At the direction of City Council, over the past several years the Police Department has exhaustively reviewed and explored implementing a photo enforcement program in Tigard. The following timeline serves to demonstrate the process of the review and discussions with Council regarding the program:

- August 2010 – At the direction of City Council, the Police Department presented an informational briefing photo red light enforcement.
- June 2015 - Council directed the Police Department (PD) to conduct a traffic study on

the feasibility of implementing a photo red light program.

- November 2015 - The PD worked with a photo red light vendor to complete a study at four (4) locations along Pacific Highway.
- August 2016 - A traffic survey and staff report were submitted to Council for consideration. Council directed staff to determine the public's level of support.
- January 2017 - A photo red light question was included as part of a larger community survey.
- February 2017 - Citizen survey results were released
- April 2017 - Staff memo to Council including results of citizen survey and requesting direction to move forward.
- May 2017 AIS 3065 – Staff report to Council recommending implementation
- February 2018 - Photo red light vendor traffic survey results provided to the PD
- September 2018 - Photo red light presentation during the Council workshop meeting

Based on research conducted with similar jurisdictions, the traffic study results, and a preliminary workload analysis along with a review of ODOT crash response data, the Police Department has identified three intersections on Pacific Highway 99W to be the preferred locations to install photo red light enforcement cameras. Those intersections are:

- 99W & SW Hall Boulevard, and
- 99W & SW Durham Road
- 99W & 72nd

Given all the data and discussions with the City Council, the Police Department developed an implementation plan for the program with photo red light enforcement only at these three intersections as the program and its impact on citizens and staff workload are explored. All three are possible locations to implement "speed on green" enforcement after the red light enforcement program is operationally stable. The first two intersections under this implementation will have three approaches captured by a camera – north bound, south bound and west bound; the intersection at 99W & 72nd will have two approaches - north bound and south bound. A "soft enforcement" period for education, will be incorporated for the first thirty days with warnings mailed to offenders during this period. Signage and other outreach methods will also be utilized to prepare the public for this program.

With the program plan in place, a Request for Proposal (RFP) was released on July 6th of this year with proposals due on July 25th. Upon closing, the city received four proposals:

- Conduent State & Local Solutions, Inc.
- RedFlex Traffic Systems, Inc.
- VerraMobility (American Traffic Solutions, Inc.)
- Sensys America, Inc.

A selection committee of staff from multiple departments and divisions scored the proposals based on the following criteria as outlined in the RFP:

- Knowledge, Experience, Qualifications, and Financial Stability of the Firm (20% of total score)
- Project Understanding and Approach (30% of total score)
- Technical Specifications of the System (30% of total score)
- Compensation Structures (20% of total score)

Upon review, the selection committee found Conduent State & Local Solutions, Inc. (Conduent) and RedFlex Traffic Systems, Inc. to be the top ranking firms and moved forward with a presentation/interview process with those two firms. During this process, additional scoring was attached and the same selection committee evaluated the presentations and responses to the city's questions. After these presentations, it was clear to the selection committee that Conduent's system and infrastructure provides the best solution for the city's plan for the photo red light enforcement program. Accordingly, Conduent is receiving the selection committee's recommendation for contract award. The recommendation will be for the three intersections listed above with the contracting allowing the option to add speed on green enforcement at the city's discretion.

OTHER ALTERNATIVES

The Local Contract Review Board may elect to place this program on hold and direct staff to conduct further studies.

The Local Contract Review Board may direct staff to add to or alter the intersections detailed in this program.

COUNCIL OR TCDA GOALS, POLICIES, MASTER PLANS

DATES OF PREVIOUS CONSIDERATION

- August 2010 – informational briefing
- June 2015 - Council directed the Police Department (PD) to conduct a traffic study on the feasibility of program.
- August 2016 -traffic survey and staff report submitted to Council. Council directed staff to determine the public's level of support.
- April 2017 - staff memo to Council including results of citizen survey and requesting direction to move forward.
- May 2017 – staff report to Council recommending implementation
- September 2018 - staff presentation at Council workshop

Fiscal Impact

Cost: \$2,100,000

Budgeted (yes or no): No

Where Budgeted (department/program): General Fund (after 1st Quarter Supplemental)

Additional Fiscal Notes:

The total cost of this program is anticipated to be just over \$5 million over five years. This contract accounts for roughly \$2.1 million of that cost for photo red light enforcement at the three intersections identified: 99W/Durham Road, 99W/Hall Boulevard and 99W/72nd. Additional Municipal Court staffing, Police Department staffing, other ongoing operational costs, and a court remodel make up the other costs. The program is anticipated to generate between \$6.2 million and \$7.8 million in citations revenue over that same period.

A detailed revenue and expense forecast summary of the program is attached for review. There are many variables that contribute to the number of citations issued and at what level they are paid. The forecast takes into account a range of potential photo red light citations that we may experience annually (approximate range of 13,000 to 16,500). After all business rules and thresholds have been set and the City has at least six (6) months of actual program experience, a better expense and revenue forecast can be established.

Attachments

Photo Red Light forecast summary

Photo Red Light - Revenue and Expense RANGE Summary
Sept 13, 2018

Photo Red Light Program Expense and Revenue Estimates

Q1

TOTAL: 5 years

Expense Estimates	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2018-19 to FY 2023-24
Court: Staffing	\$ 252,783	\$ 328,884	\$ 365,334	\$ 376,294	\$ 387,582	\$ 196,655	\$ 1,907,532
Facilities: move Cost	\$ 350,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 350,000
Police: Contract	\$ 204,000	\$ 412,080	\$ 420,322	\$ 428,728	\$ 437,303	\$ 220,816	\$ 2,123,248
Police: Staffing	\$ -	\$ 161,260	\$ 150,544	\$ 155,061	\$ 159,713	\$ 81,036	\$ 707,614
Costs by fiscal year	\$ 806,783	\$ 902,224	\$ 936,200	\$ 960,082	\$ 984,597	\$ 498,508	\$ 5,088,394

Revenue Estimates	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2018-19 to FY 2023-24
Revenue estimate: high	\$ 463,847	\$ 1,739,425	\$ 1,623,463	\$ 1,623,463	\$ 1,623,463	\$ 811,732	\$ 7,885,392
Revenues NET expenses	(\$342,936)	\$837,201	\$687,264	\$663,381	\$638,866	\$313,224	\$2,796,999

Revenue estimate: low	\$365,319	\$1,369,945	\$1,278,615	\$1,278,615	\$1,278,615	\$639,307	\$6,210,416
Revenues NET expenses	(\$441,464)	\$467,721	\$342,415	\$318,533	\$294,018	\$140,800	\$1,122,022

Revenue estimate: average	\$ 414,583	\$ 1,554,685	\$ 1,451,039	\$ 1,451,039	\$ 1,451,039	\$ 725,520	\$ 7,047,904
Revenues NET expenses	(\$392,200)	\$652,461	\$514,840	\$490,957	\$466,442	\$227,012	\$1,959,510

ESTIMATE NOTE: There are many variables that contribute to the number of citations issued and at what level they are paid. This summary takes into account a range of potential photo red light citations that we may experience annually [approximately 13,000 to 16,500]. Once all of the business rules and thresholds have been set and the City has at least six (6) months of actual experience a better forecast can be established.

FY 2018-19 costs: Please note that the first year include one-time costs, primarily the remodel / move costs that will not carry forward. Additionally, the PD will incur increased staff costs to manage - based on workload estimates there will be enough work for at least one police office (1.0 FTE). The PD currently has one officer vacancy that is funded in FY 2018-19. The position was originally slated to be cut in FY 2019-20 - PD will request to retain the position. Both the Court and PD will continue evaluate future program staffing needs after go-live.

Three intersections - 8 approaches in total:

* 99W & SW Hall: NB, SB, WB for right turn on red - 3 approaches

* 99W & SW Durham: NB, SB, WB for right turn on red - 3 approaches

*99W & 72nd: NB, SB (no right turn on red) - 2 approaches

AIS-3609

4.

Business Meeting

Meeting Date: 09/25/2018

Length (in minutes): 20 Minutes

Agenda Title: Legislative Public Hearing - Consider Ordinance to Amend the Tigard Municipal Code Regarding Right-of-Way Encroachments

Submitted By: Tegan Enloe, Public Works

Item Type: Motion Requested
Ordinance
Public Hearing - Legislative

Meeting Type: Council
Business
Meeting -
Main

Public Hearing: Yes

Publication Date:

Information

ISSUE

Shall the City Council approve amendments to Tigard Municipal Code Chapter 15.16 regarding encroachments into right-of-way and public property.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends adoption of this ordinance.

KEY FACTS AND INFORMATION SUMMARY

Right-of-way (ROW) encroachments into improved ROW are not currently regulated by the City. Approval to amend TCM 15.16 adds language requiring individuals seeking to place items within any City ROW or publicly owned property to apply for an encroachment permit. This provides City staff the opportunity to review requests and ensure these items: 1) do not pose a risk to public safety, 2) comply with the City's design and construction standards, and 3) will be properly maintained.

OTHER ALTERNATIVES

Council could decide to not approve amendments to TMC 15.16, maintaining the status quo wherein the City does not regulate encroachments.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

The proposed Municipal Code Amendments would allow City staff to protect walkability within the City by limiting encroachments into public walking space.

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

Attachments

Ordinance Amending 15.17 Encroachments

TMC 15.16 Encroachments

Presentation Slides

**CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 18-**

AN ORDINANCE AMENDING TIGARD MUNICIPAL CODE CHAPTER 15.16 REGARDING ENCROACHMENTS INTO RIGHTS-OF-WAY AND PUBLIC PROPERTY

WHEREAS, Chapter 15.16 of the Tigard Municipal Code (TMC) currently regulates encroachments into unimproved rights-of-way, easements, and public property, leaving a significant void in the City's regulation of encroachments into improved areas; and

WHEREAS, this ordinance eliminates the distinction between improved and unimproved areas and applies to all rights-of-way and public property; establishes procedures, standards, and conditions for issuing encroachment permits; and identifies exempt encroachments not requiring a permit; and

WHEREAS, the ability of the City to control encroachments into rights-of-way and public property is necessary for the protection of the City's transportation facilities, the provision of utility services, and the preservation of public properties.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Tigard City Council amends Chapter 15.16 of the Tigard Municipal Code as shown on the attached Exhibit A (additional language is underlined and deleted text is shown in ~~strikethrough~~).

SECTION 2: This ordinance shall be effective 30 days after its passage by the council, signature by the mayor, and posting by the city recorder.

PASSED: By _____ vote of all council members present after being read by number and title only, this ____ day of _____, 2018.

Carol A. Krager, City Recorder

APPROVED: By Tigard City Council this ____ day of _____, 2018.

Approved as to form:

John L. Cook, Mayor

City Attorney

Date

Exhibit A

TIGARD MUNICIPAL CODE

Chapter 15.16 ENCROACHMENT PERMITS

Sections:

- 15.16.010 Encroachments Within Unimproved Public Rights-of-Way, Easements, and Public Property**
 - 15.16.015 Definitions**
 - 15.16.020 Exemptions**
 - 15.16.030 Permit Issuance**
 - 15.16.040 Appeals**
 - 15.16.050 Standards and Conditions**
 - 15.16.060 Recording of Permits**
 - 15.16.070 Revocation of Permits**
 - 15.16.080 Removal of Encroachment**
 - 15.16.090 Liability**
 - 15.16.100 Enforcement**
-
- 15.16.010 Encroachments Within Unimproved Public Rights-of-Way, Easements and Public Property**

A. ~~Encroachment Permits Required for Encroachment in Unimproved Public Rights-of-Way, Easements, and Public Property; Exceptions.~~

1. ~~Except as provided in subsection A.2 of this section, it shall be~~ It is unlawful for any person to erect, or cause to be erected, any ~~structure or to place or maintain any vegetation and/or landscaping materials~~ encroachment in, over, or upon any dedicated unimproved public right-of-way, ~~easement~~, or public property without having first obtained an encroachment revocable permit from the city ~~engineer manager or designee~~ authorizing such action. ~~Encroachment into improved public right of way is only allowed if specifically authorized by the city pursuant to Chapter 15.04.~~

2. ~~The person in control of any encroachment of a structure, vegetation, and/or~~

~~landscaping materials in, over or upon any dedicated unimproved public right of way, easement, or public property existing on December 7, 1999, shall apply for an encroachment permit pursuant to this chapter no later than March 6, 2000. No action charging a violation of subsection A.1 of this section may be initiated for an encroachment existing on December 7, 1999, before March 6, 2000, or while a timely filed application for an encroachment permit is under consideration by the city.~~

B. Application and Fee Required.

1. Any person ~~desiring proposing~~ to locate or maintain an encroachment within any ~~unimproved public right-of-way, easement, or public property shall~~ must submit an application to the city ~~manager~~ engineer or designee. The application shall will include a description of the proposed encroachment, a scale drawing illustrating the nature and extent of the proposed encroachment, and its relationship to adjoining properties. If the applicant is not the owner of the property ~~that will be~~ benefitted by the encroachment, the owner of that property shall must also sign the application as a co-applicant. The city ~~engineer manager or designee~~ may require an actual survey to determine the exact location of the proposed encroachment ~~any public or private improvements or significant vegetation.~~

~~2. The application shall be accompanied by a petition indicating the extent of support for the proposed encroachment by owners/occupants of property within 200 linear feet in each direction from the boundary of the proposed encroachment, and the names and mailing addresses of all property owners within that 200 foot area.~~

2.3. The applicant must pay a A fee in the amount established by resolution of the city

Exhibit A

TIGARD MUNICIPAL CODE

~~council shall be paid at the time of the application.~~Hill

C. Review of Application. The city engineer will review the application to determine if it complies with standards in this chapter and may request comments from affected city departments and utilities regarding the impact of the proposed encroachment.

~~1. The city manager or designee shall conduct a review of the application for an encroachment permit to determine its compliance with the standards in Section 15.16.050 and shall request comments from affected city departments regarding the impact of the proposed encroachment.~~

15.16.015 Definitions

A. “City engineer” means the city engineer for the City of Tigard or his or her designee.

B. “City hearings officer” means the municipal judge or the individual appointed by the municipal judge with the delegated authority to preside over code enforcement hearings and to perform the related functions.

C. “Encroachment” means any privately owned structure, furnishing, hardscape, or underground system other than those authorized by Tigard Municipal Code Chapter 15.06, located in the right-of-way or on public property.

D. “Furnishing” means an object that is designed to be readily moveable and that is not permanently affixed to the ground, such as a café table or tent.

E. “Public property” means any premises owned or maintained by the city.

F. “Right-of-way” means an area that allows for the passage of people, goods, or utilities. Right of way may include freeways, pedestrian connections, and streets. A right of way may be dedicated or deeded to the public for public use or, owned by the city or other public body.

15.16.020 Exemptions

A. Certain encroachments are exempt from the permit requirement of Section 15.16.010. Exempt encroachments are those which would have a minor impact on the present or planned use of the ~~unimproved public right-of-way, easement, or public property and those which are expressly permitted by this code. Except as provided by subsection B of this section, e~~Exempt encroachments are:

1. ~~Mailboxes and their enclosing structures;~~

2. ~~Temporary signs and banners permitted or A-frame signs allowed by the Sign Code;~~

~~3. Guard/handrails along edges of driveway approaches, walks, stairs, etc. encroaching in unimproved public right of way.~~

4. ~~Lawns, plants, and approved street trees encroaching in unimproved public right-of-way that do not obstruct visibility for pedestrians, bicyclists, and motorists.~~

3. Transportation improvements required by Tigard Community Development Code Chapter 18.910 and authorized by a right-of-way permit issued pursuant to Tigard Municipal Code Chapter 15.04; or

Exhibit A

TIGARD MUNICIPAL CODE

4. Any encroachments authorized by a license or franchise granted pursuant to Tigard Municipal Code Chapter 15.06.

~~B. The encroachments described in subsection A of this section shall not be exempt if they create a line of sight traffic hazard (see Chapter 18.795).~~

B. Encroachments existing before November 1, 2018 may remain in place without requiring an encroachment permit, provided they are not:

1. A public safety hazard;

2. Modified in any way, including repaired, relocated, or reconstructed, but not including routine maintenance; and

3. Located on or near a benefitting property that is the subject of a land use application or building permit.

15.16.030 Permit Issuance

The city ~~engineer manager or designee~~ may approve, modify and approve, or deny the application for an encroachment permit based on the standards in Section 15.16.050. ~~Notice of the decision shall be sent to the applicant and owners/occupants of property within 200 linear feet in any direction of the boundary of the proposed encroachment.~~

15.16.040 Appeals

A. An applicant or affected property owner or occupant ~~owner/occupant of property within 200 linear feet of the boundary of the proposed encroachment~~ may appeal the decision of the city ~~engineer manager or designee~~ to the city hearings officer ~~council~~.

B. An appeal must be filed with the city ~~recorder~~ engineer within 15 days of the date of the decision. The appeal must include the basis for the appeal and shall be accompanied by a fee in an amount established by resolution of the city council.

C. The city ~~hearings officer~~ council will ~~shall conduct a public hearing on the appeal~~ provide the appellant and any other affected party a reasonable opportunity to be heard on the question of why the decision of the city ~~engineer manager or designee~~ should be reversed or modified. ~~Notice of the public hearing shall be sent to the applicant, appellant, and owners/occupants of property within 200 linear feet of the boundary of the proposed encroachment. At the conclusion of the public hearing, the city council shall make a final determination in the matter, applying the standards contained in Section 15.16.050. The decision of the city hearings officer is a final decision.~~

15.16.050 Standards and Conditions

The city ~~engineer manager or designee~~ may approve the issuance of a permit for encroachment within the ~~unimproved public~~ right-of-way; ~~easement~~; or public property where compliance with the following standards is ~~can~~ be demonstrated or specific findings are made that the standard is found to be not applicable. The city ~~engineer manager or designee~~ may attach any conditions to the issuance of the permit that are reasonably related to ensuring compliance with this section, other applicable city codes and ordinances, and to protection of the public interest.

A. Standards for Approval.

~~1. A minimum of three feet of clearance shall be maintained on all sides of fire hydrants.~~

Exhibit A

TIGARD MUNICIPAL CODE

~~2. Clearances to water meters shall be one foot behind and two feet from the sides measured from the outside edges of the box. The applicant shall pay for meter relocation if this standard cannot be met.~~

~~3. Clearances from manholes and underground pipelines such as city sewer lines, water lines, and storm drain lines shall be a minimum of seven feet.~~

~~4. Clearances between underground utilities such as power, telephone, cable TV and natural landscape materials, or structures placed over those facilities shall be the distance required by the affected utilities. Conditions requested by the utility providers shall be considered for inclusion into the permit.~~

1. The proposed encroachment is expressly authorized by the Tigard Community Development Code or is otherwise in the public interest and consistent with the City's Public Improvement Design Standards.

2. The proposed encroachment does not interfere with the existing or future transportation system or the provision of public utilities.

3. The proposed encroachment does not impede vision clearance or sight distance, pursuant to Tigard Community Development Code Chapter 18.920 or the current AASHTO publication, "A Geometric Design of Highways and Streets," whichever is more restrictive.

45. Proposed—~~The~~ proposed encroachments ~~shall~~ does not prevent access to, cover, or block the flow of water to or into catch basins, ditches, or swales, and ~~shall~~ does not otherwise alter the natural drainage patterns in a manner that adversely affects other property.

~~Where drainage is involved, the city manager or designee may set specific requirements.~~

~~6. Where the adjacent right of way has been fully improved to its planned dimension with associated curbs, sidewalks, utilities and street trees, an encroachment may be permitted between the property line and the back edge of sidewalk provided there is a one foot minimum clearance between the proposed encroachment and the back edge of the sidewalk and all other standards have been met.~~

57. The proposed encroachment maintains minimum applicable vertical clearance for encroachments within the right-of-way, as provided in the Tigard Community Development Code or Manual on Uniform Traffic Control Devices. Sufficient room for off-street parking and pedestrian travel shall be maintained and the encroachment shall not result in a loss of area needed for parking, vehicular maneuvering, or pedestrian travel.

6. The proposed encroachment must meet minimum horizontal clearances from public facilities, such as manholes and fire hydrants, as set by the relevant service provider.

~~8. It is determined that the requested encroachment is consistent with the current use of the unimproved public right of way, easement or public property.~~

B. Standards of Approval for Furnishings. In addition to the standards provided in Section 15.16.050.A, approval of furnishings as encroachments must meet the following additional standards.

1. Furnishings may not be chained, bolted, or otherwise attached to any fixture, tree, or

Exhibit A

TIGARD MUNICIPAL CODE

item located in the right-of-way, nor attached to the surface of any right-of-way.

2. Furnishings must identify the name and address of the owner on the exterior of the object, as well as an emergency contact number.

3. Furnishings must maintain a weather proof or weather resistant quality.

4. Furnishings must be designed to be stable and self-supporting under a wind load of at least 20 pounds without attachment to the pavement or other object.

CB. Conditions.

1. As a condition of permit issuance, when ~~When~~ the city ~~manager or designee~~ determines that ~~the proposed~~ allowing the requested encroachment may subject the city to potential liability, the city may require a condition of permit issuance shall be the filing with the city recorder of the applicant to obtain general liability insurance and file a certificate of insurance with the city from an insurance company acceptable to the city, a policy of insurance and form of policy by an insurance company licensed to do business in the State of Oregon. The policy will ~~shall~~ protect name the city, its officers, agents, and employees as additional insureds. ~~, and the abutting property owners, lessees and tenants from any and all claims for injury or damage to persons or property that might result from the placing and/or maintenance of the permitted encroachment.~~ The amount of the insurance policy ~~will~~ be determined by the city, but in no case will it be less than ~~shall be at least~~ the limits of public body liability under the Oregon Tort Claims Act. The policy must ~~shall~~ also contain a provision that the city will ~~recorder~~ shall be notified at least 10 days prior to any cancellation of such insurance. The permittee must ~~shall~~ maintain the insurance for the term of the permit issued.

Failure to maintain the insurance ~~shall~~ results in automatic revocation of the permit.

2. The city ~~engineer manager or designee~~ may place a limit on the time the proposed encroachment may be located in or on the ~~unimproved~~ right-of-way, ~~easement~~, or public property.

3. To ensure that ~~unimproved~~ right-of-way, ~~easement~~, or public property encroachments do not contribute to visual blight or create a safety hazard, the permittee must ensure the encroachment is maintained and kept in a safe condition. ~~conditions of permit approval may include a requirement that the encroachment be appropriately maintained.~~ This includes, but is not limited to maintaining a condition which is reasonably free of dirt, rust, and grease as well as chipped, faded, peeling, or cracked paint. All structural or moving parts must be in working order and pose no safety hazard to the public. Any glass or plastic (such as display windows) must be unbroken and reasonably free of cracks, dents, blemishes, and discoloration.

4. The city may impose a charge for the use of the ~~unimproved~~ public right-of-way, easement or public property.

5. The city may require the removal of the encroachment at any time, including when the property benefitted by the encroachment develops.

15.16.060 Recording of Permits

The city may require the permittee to record ~~Approved encroachment permits shall be recorded~~ an approved encroachment permit against the title of the benefitting property. The permittee will pay the costs of recording. ~~and the costs of such recording shall be paid by the applicant.~~

Exhibit A

TIGARD MUNICIPAL CODE

15.16.070 Revocation of Permits

A. All ~~unimproved~~ right-of-way, ~~easement~~, or public property encroachment permits ~~shall be~~ are revocable by the city at any time such revocation would be in the public interest. No grant of any permit, expenditure of money in reliance thereon, or lapse of time ~~shall give~~ the permittee any right to the continued existence of an encroachment or to any damages or claims against the city arising from a revocation.

B. Any permit issued under this ~~section~~ chapter will be automatically revoked if the permittee fails to comply with any conditions of the permit or fails to begin installation of the allowed encroachment within 60 days after issuance of the permit, ~~unless an~~ the applicant requests an extension ~~is requested~~ prior to the expiration of the 60-day period, ~~or fails to comply with any conditions of the permit.~~

15.16.080 Removal of Encroachment

A. Upon revocation, pursuant to Section 15.16.070, the permittee or any successor permittee, ~~shall will~~, at the permittee's own cost, remove the ~~permitted~~ encroachment within 30 days after written notice has been provided by the city unless a shorter period is specified in the notice of revocation. The permittee must ensure that the property is restored to a good and safe condition.

B. If the permittee does not remove the encroachment and return the ~~unimproved~~ right-of-way, ~~easement~~, or public property area to a condition satisfactory to the city engineer, manager or designee, the city ~~shall~~ may do so and the ~~permittee shall will be personally liable to the city for any and all~~ the costs of returning the right-of-way, ~~easement~~, or public property to a satisfactory condition, including the removal of structures, the encroachment and reconstruction of streets ~~and/or~~

~~sidewalks, pathways which costs shall may be imposed as a lien upon the property, on the city lien docket.~~

15.16.090 Liability

The permittee, and owner of the benefitted property if different than the permittee, are responsible and liable for all accidents, environmental clean-up, damages or injuries to any person or property resulting from the construction, maintenance, repair, operation or use of an encroachment. The permittee will indemnify, defend, and hold harmless the city, its elected officials, and all officers, employees or agents against any and all damages, claims, demands, actions, causes of action, costs and expenses of whatsoever nature which they or any of them may sustain by reasons of the acts, conduct or operation of the permittee, the permittee's agents, or employees in connection with the construction, maintenance, repair, operation or use of said encroachment and by reason of the existence of an approved unimproved right-of-way or public property encroachment.. shall be liable to any person who is injured or otherwise suffers damage by reason of any encroachment allowed in accordance with the provisions of this section. Furthermore, the permittee shall be liable to the City of Tigard, its officers, agents and employees, for any judgement or expense incurred or paid by the city, its officers, agents and employees, by reason of the existence of an approved unimproved right of way, easement or public property encroachment.

15.16.100 Enforcement

A. Installation or maintenance of an encroachment in violation of Section 15.16.010, or failure to obtain an encroachment permit as required by Section 15.16.010, or to comply with the terms and conditions of an encroachment

Exhibit A

TIGARD MUNICIPAL CODE

permit issued thereunder is hereby declared a civil infraction subject to enforcement pursuant to Chapter 1.16.

B. Installation or maintenance of an encroachment in violation of Section 15.16.010, or an encroachment permit issued pursuant to Section 15.16.010 is hereby declared to be a public nuisance pursuant to Title 6 of the Tigard Municipal Code ~~as defined by Section 6.01.050~~, which may be abated pursuant to Chapter 1.16. (Ord. 12-02 §3; Ord. 99-31) ■

City
of
Tigard



Respect and Care | Do the Right Thing | Get it Done

Encroachments into Right-of-Way

City Council Meeting
September 25th, 2018



Definition of Encroachment

- ▶ An encroachment occurs when a private party places an item with the City's right-of-way or publicly owned property.

Examples

- ▶ Street furniture



Examples

- ▶ Mailboxes encased in a structure (post mounted are exempt)



Examples

- ▶ Walls and fences



Encroachment Regulations

- ▶ Current: The City does not currently regulate or monitor encroachments in improved ROW.
- ▶ Proposed: Approval of the proposed ordinance amends TMC 15.16 to require encroachment permits. This would enable the City to regulate, monitor, and enforce ROW use related to encroachments.

Staff Recommendation

- ▶ Staff recommends approval of the proposed amendments to the Municipal Code Chapter 15.16 regarding encroachments into right-of-way and public property.

AIS-3613

5.

Business Meeting

Meeting Date: 09/25/2018

Length (in minutes): 5 Minutes

Agenda Title: Legislative Public Hearing - Consider Ordinance to Amend the Tigard Municipal Code Chapter 6.02 Regarding Right-of-Way Encroachments

Prepared For: Shelby Rihala, City Management

Submitted By: Carol Krager, Central Services

Item Type: Motion Requested
Ordinance
Public Hearing - Legislative

Meeting Type: Council
Business
Meeting -
Main

Public Hearing: Yes

Publication Date:

Information

ISSUE

Shall the City Council approve amendments to Tigard Municipal Code Chapter 6.02, Nuisances Affecting Public Health, Safety, and Peace, to reflect recent code updates regarding encroachments into the right-of-way?

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends adoption of this ordinance.

KEY FACTS AND INFORMATION SUMMARY

Earlier on this agenda, Council considered amendments to Tigard Municipal Code 15.16, Encroachment Permits. TMC 6.02, Nuisances Affecting Public Health, Safety, and Peace, contains identical language as the prior TMC 15.16 and now needs to be updated to mirror the newly amended encroachment code. This ordinance amends the language regarding nuisance encroachments and makes a violation of the newly amended TMC 15.16 a public nuisance.

Additionally, with the renumbering of the city's Community Development Code, the citation to the Sign Code in TMC 6.02 is no longer accurate. This ordinance corrects the code citation.

OTHER ALTERNATIVES

Council could choose not to approve the ordinance and the TMC would remain unchanged.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

Improve Tigard walkability and abate nuisances affecting public health, safety, and peace.

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

Attachments

Ordinance

**CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 18-**

AN ORDINANCE AMENDING TIGARD MUNICIPAL CODE SECTION 6.02.340 REGARDING
UNAUTHORIZED ENCROACHMENTS

WHEREAS, Chapter 6.02 of the Tigard Municipal Code (TMC) regulates nuisances affecting public health, safety, and peace; and

WHEREAS, pursuant to Section 6.02.340, an encroachment other than those authorized by TMC Chapter 15.16 is declared a public nuisance; and

WHEREAS, TMC Chapter 15.16 was substantially revised and this ordinance updates the nuisance code to reflect that recently adopted language; and

WHEREAS, the Tigard Sign Code, located within the Tigard Community Development Code, was renumbered and this ordinance corrects that citation in the nuisance code.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Tigard City Council amends the title of Section 6.02.340 of the Tigard Municipal Code to read, “Encroachments Within Rights-of-Way and Public Property.”

SECTION 2: Tigard City Council amends Section 6.02.340 of the Tigard Municipal Code as follows (additional language is underlined and deleted text is shown in ~~striketrough~~):

Except as provided in Chapter 15.16 ~~Section 15.16.010.A.2~~, it ~~shall be~~ is unlawful for any person to erect, or cause to be erected, any ~~structure or to place or maintain any vegetation and/or landscaping materials~~ encroachment in, over, or upon any ~~dedicated public right-of-way, easement, or public property~~ without having first obtained a ~~revocable~~ permit from the city ~~manager or designee~~ engineer authorizing such action. ~~Encroachment into improved public right-of-way is only allowed if specifically authorized by the city pursuant to Chapter 15.04.~~

SECTION 3: Tigard City Council amends Section 6.02.160 of the Tigard Municipal Code as follows (additional language is underlined and deleted text is shown in ~~striketrough~~):

Constructing, placing, or maintaining a sign in violation of Tigard Community Development Code Chapter 18.435 ~~provisions of Chapter 18.780~~ is declared to be a public nuisance in violation of this title.

SECTION 4: This ordinance shall be effective 30 days after its passage by the council, signature by the mayor, and posting by the city recorder.

PASSED: By _____ vote of all council members present after being read by number and title only, this _____ day of _____, 2018.

Carol A. Krager, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2018.

John L. Cook, Mayor

Approved as to form:

City Attorney

Date

AIS-3614

6.

Business Meeting

Meeting Date: 09/25/2018

Length (in minutes): 10 Minutes

Agenda Title: Public Hearing: Consider Amendment of Master Fees and Charges Schedule

Prepared For: Shelby Rihala, City Management

Submitted By: Carol Krager, Central Services

Item Type: Resolution
Public Hearing - Informational

Meeting Type: Council
Business
Meeting -
Main

Public Hearing: No

Publication Date:

Information

ISSUE

A Public Hearing to consider amending the Master Fees and Charges to add fees related to encroachment permits.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends that City Council adopt the attached resolution.

KEY FACTS AND INFORMATION SUMMARY

Earlier on this agenda, Council considered amendments to Tigard Municipal Code 15.16 regarding encroachments. These amendments add a permit requirement for encroachments into the improved right-of-way. Even though the prior version of the code required an encroachment permit for encroachments into the unimproved right-of-way, there was no corresponding fee in the City's fee schedule to compensate the City for its review of these applications.

This resolution imposes a \$100 encroachment permit application fee and a \$250 appeal fee for appeals of an encroachment permit denial.

OTHER ALTERNATIVES

Council could suggest a different fee structure or take no action, meaning there would be no fees for encroachment permits or appeals.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

The fees and charges help fund council strategies, including the City's Strategic Plan.

DATES OF PREVIOUS COUNCIL CONSIDERATION

Council reviewed the Master Fees and Charges as part of the budget adoption process on June 26, 2018.

Attachments

Resolution

Exhibit A

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 18-

A RESOLUTION AMENDING THE MASTER FEES AND CHARGES TO ADD FEES RELATED TO ENCROACHMENTS

WHEREAS, Ordinance 18_____ amended Tigard Municipal Code 15.16 regarding encroachments and adding a permit requirement for encroachments into the improved right-of-way; and

WHEREAS, the City wishes to establish fees for an encroachment permit and appeals of a denial of an encroachment permit.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The Master Fees and Charges for the City of Tigard are amended to establish an encroachment permit fee and appeal fee for the appeal of a denial of an encroachment permit as shown in the attached schedule (Exhibit A).

SECTION 2: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2018.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

Exhibit A - Encroachment Fee

Department	Revenue Source	Fee or Charge	Effective Date
PUBLIC WORKS - DEVELOPMENT ENGINEERING			
	<u>Addressing Assignment Fee</u>	\$50.00 /lot or suite (up to first 20)	8/1/2017
		\$25.00 /lot or suite (for 21 and greater)	8/1/2017
	<u>Early Addressing Request</u>	\$250.00 Prior to Plat Approval	8/1/2017
	<u>Encroachments</u>		
	Encroachment Permit	\$100.00	11/1/2018
	Encroachment Permit Appeal	\$250.00	11/1/2018
	<u>Erosion Control Inspection Fee</u>		
	<u>With Development</u>		
	Construction Cost Estimate \$0-\$25,000	\$80.70	7/1/2014
	Construction Cost Estimate \$25,001-\$50,000	\$107.60	7/1/2014
	Construction Cost Estimate \$50,001-\$100,000	\$161.40	7/1/2014
	Construction Cost Estimate over \$100,000	\$161.40 plus \$75 per \$100,000 or fraction thereof exceeding the first \$100,000	7/1/2014
	<u>Without Development</u>		
	0-0.99acres	\$322.80	7/1/2014
	1acre of greater	\$322.80 plus \$150 per acre or fraction thereof	7/1/2014
	Reinspection Fee	\$96.84 per hour with a minimum of 1 hour	7/1/2014
	Plan Check	included in inspection fee	7/1/2014
	Plan Resubmittal Review	\$96.84 per hour with a minimum of 1/2 hour	7/1/2014
	<u>Fee In Lieu Of Bicycle Striping</u>		
	8-inch white stripe	\$2.69 /linear foot of frontage	7/1/2014
	Bike lane legends	\$188.30 /each	7/1/2014
	Directional mini-arrows	\$107.60 /each	7/1/2014
	Mono-directional reflective markers	\$4.30 /each	7/1/2014
	<u>Fee In Lieu of Construction of an Onsite Stormwater Quality Facility</u>		
		\$1.00 /per sq. ft. of untreated impervious area	8/1/2017
	<u>Fee In Lieu Of Undergrounding</u>		
	Utility Portion (one or more, accumulative):		
	Electrical	\$75.00 /lineal foot	7/1/2018

Exhibit A - Encroachment Fee

Department	Revenue Source	Fee or Charge	Effective Date
	Cable	\$15.00 /lineal foot	7/1/2018
	Telecommunication	\$25.00 /lineal foot	7/1/2018
	Trench Cost (applied only once, per lineal foot)	\$35.00 /lineal foot	7/1/2018
	<u>Public Facility Improvement - LIDA* Permit</u>	\$300.00 /equivalent dwelling unit (EDU) for review and inspection of LIDA on single lots	8/1/2017
	* - LIDA + Low Impact Development Approaches per Clean Water Services Design and Construction Standards		
	<u>Public Facility Improvement Permit</u>	2% plan review plus 5% of estimated cost of public improvement with a \$300 minimum Advanced deposit of 10% of the above or minimum of \$300	7/1/2009 7/1/2005
	<u>Reimbursement District Application Fee</u>	\$300.00	1/27/1998
	<u>Reimbursement District Fee</u>	Not to Exceed \$6,000.00 unless reimbursement fee exceeds \$15,000.00. Any amount over \$15,000.00 shall be reimbursed by the owner; \$6,000.00 limit valid for only 3 years from Council approval of district cost.	7/1/2001
	<u>Streetlight Energy & Maintenance Fee</u>	Based upon PGE Schedule #95 Option "A" for the first two years costs	2000
	<u>Traffic/Pedestrian Signs</u>	Cost of materials and labor	2/7/2002
	<u>Tigard Triangle Mixed Use Zone – Fees and Charges</u>		
	Transportation Impact Study	Actual Cost of Study by City Transportation Consultant Estimated Cost of Improvements by City Engineer (determination based on an estimate to construct the required improvements using the average cost of the most recent capital improvement project itemized bid prices)	7/1/2018
	Transportation Fee in Lieu of Construction		7/1/2018
	Engineering Pre-Screen Conference	\$300.00 /conference	7/1/2018

AIS-3630

7.

Business Meeting

Meeting Date: 09/25/2018

Length (in minutes): 5 Minutes

Agenda Title: CONSIDER RESOLUTION AUTHORIZING A
CDBG GRANT APPLICATION FOR FREWING ST
SIDEWALKS

Submitted By: Dave Roth, Community
Development

Item Type: Resolution

Meeting Type: Council
Business
Meeting -
Main

Public Hearing No

Newspaper Legal Ad Required?:

Public Hearing Publication

Date in Newspaper:

Information

ISSUE

Shall Council approve a resolution authorizing a Community Development Block Grant (CDBG) application for sidewalk construction and related improvements on one side of SW Frewing Street?

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends that Council approve of the resolution.

KEY FACTS AND INFORMATION SUMMARY

The CDBG grant application is for completing a missing sidewalk segment on one side of SW Frewing Street east of HWY 99W. The grant amount being applied for is \$237,720. The City of Tigard's match amount for this grant will be \$27,000, funded through engineering design and management services.

This improvement would provide a safer option for residents on Frewing to walk. Currently, residents including children being picked up and dropped off by school buses, are forced to walk in the roadway.

CDBG funding would allow this project to move forward on these improvements.

OTHER ALTERNATIVES

Decline to authorize the CDBG application. Improvements will need to be funded from other sources.

COUNCIL OR TCDA GOALS, POLICIES, MASTER PLANS

City of Tigard Strategic Plan: "Facilitate walking connections to develop an identity."

DATES OF PREVIOUS CONSIDERATION

The City of Tigard previously applied for, but was not awarded CDBG funds for this project in 2010.

Fiscal Impact

Cost: \$27,000

Budgeted (yes or no): yes

Where budgeted?: PW Engineering

Additional Fiscal Notes:

The cost of this project represents a 10% match of the total grant request. This match comes from engineering design and management services.

Attachments

CDBG Grant - Frewing

**CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 18-**

A RESOLUTION AUTHORIZING A COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) APPLICATION FOR CONSTRUCTION OF A SIDEWALK AND RELATED IMPROVEMENTS ON ONE SIDE OF SW FREWING STREET

WHEREAS, SW Frewing Street is an older street constructed without curbs, sidewalks, and/or drainage facilities; and

WHEREAS, the installation of a sidewalk and related improvements along this street would improve neighborhood quality and safety conditions for children and other pedestrians; and

WHEREAS, improvements to SW Frewing Street are defined in an application for federal Community Development Block Grant funds; and

WHEREAS, these improvements meet the national and Washington County Community Development Block Grant objective of serving persons having low and moderate incomes.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: Staff is authorized to apply for Community Development Block Grant funding for construction of a sidewalk and related improvements on one side of SW Frewing Street.

SECTION : This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2018.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard